

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

MARY JOHN GARRETT BYRD, )  
                          )  
Plaintiff,             )  
                          )       CIVIL ACTION NO.  
v.                     )       2:17cv747-MHT  
                          )       (WO)  
COMFORT INN-TUPELO, )  
MISSISSIPPI, et al., )  
                          )  
Defendants.           )

OPINION AND ORDER

Pursuant to 42 U.S.C. § 1983 and state law, plaintiff filed this suit contending that the defendants subjected her to a malicious arrest and defamed her on account of her race. The complaint is very poorly drafted, and plaintiff's counsel repeatedly failed to respond to court orders, and offered unacceptable excuses for doing so. This lawsuit is before the court on the recommendation of the United States Magistrate Judge that that the motion to dismiss for lack of personal jurisdiction be denied as moot and that the motion to dismiss for improper venue, or, in

the alternative, to transfer venue be granted, and that this matter be dismissed for improper venue. Also before the court are the plaintiff's objections to the recommendation and the defendants' response to the objections.

While the court is quite sympathetic to the magistrate judge's recommendation and the defendants' position, it appears that the statute of limitations recently ran on several of plaintiff's putative claims under Mississippi law, see Miss. Code Ann. § 15-1-35 (one-year statute of limitations on claims for malicious arrest, slander, and defamation), and the court is reluctant to punish the plaintiff for her counsel's seriously inadequate performance. Therefore, after an independent and de novo review of the record, the court concludes that the plaintiff's objections should be overruled; the magistrate judge's recommendation should be adopted except to the extent that it recommends dismissal instead of transfer; and

that this case should be transferred to the United States District Court for the Northern District of Mississippi pursuant to 28 U.S.C. § 1404(a) in the interests of justice.

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Accordingly, it is ORDERED as follows:

(1) Plaintiff's objections (doc. no. 26) are overruled.

(2) The magistrate judge's recommendation (doc. no. 25) is adopted to the extent described above.

(3) Defendants' motion to dismiss for improper venue, or, in the alternative, to transfer venue (doc. no. 10) is granted to the extent that venue will be transferred, and denied in all other respects.

(4) Defendants' motion to dismiss for lack of personal jurisdiction (doc. no. 9) is denied as moot.

(5) Pursuant to 28 U.S.C. § 1404(a), this case is transferred to the United States District Court for the Northern District of Mississippi.

It is further ORDERED that plaintiff's counsel provide the plaintiff with full copies of the magistrate judge's recommendation (doc. no. 25) and this opinion and order, and file a confirmation with the court that the order has been carried out by March 14, 2018.

The clerk of the court is DIRECTED to take appropriate steps to effect the transfer.

This case is closed in this court.

DONE, this the 28th day of February, 2018.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE